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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,662	05/01/2006	Takayuki Yokota	1034509-000004	8040
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EXAMINER MCCALISTER, WILLIAM M				
ART UNIT 3753		PAPER NUMBER		
NOTIFICATION DATE 02/11/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/577,662

Applicant(s)

YOKOTA ET AL.

Examiner

WILLIAM MCCALISTER

Art Unit

3753

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/11/08 (amendment) and 1/12/09 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 12, 13, 17, 18 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 12, 13, 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/12/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/11/2008 has been entered.

Claims 7-11, 14-16 and 19-23 have been cancelled. Claims 1-6, 12, 13, 17, 18 and 24 are pending for consideration.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no mention of a "straight portion" as recited in claims 1 and 5.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory

obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 24 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,484,529 (hereinafter "the '529 patent"), and alternatively over claim 1 of the '529 patent in view of US Patent 5,676,346 (hereinafter "Leinsing").

The '529 patent claims the invention substantially verbatim, with exception to the skew relation between the first and second female joint ports. It would have been an obvious matter of design choice to arrange the female joint ports as claimed, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 457 (CCPA 1966).

Alternatively, Leinsing teaches that it was known in the art at the time of invention to arrange two inlet joint ports (21, 34) in a skew relationship with one another. To

provide a low-resistance flowpath through both female joint ports, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a skew relationship between the joint ports that are claimed in the '529 patent, as taught by Leinsing.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leinsing.

Leinsing discloses a connector comprising:

a tubular male joint member (see annotated FIG 5, below);

a liquid passage portion (all interior space through which fluid flows, as illustrated at annotated FIG 5, below) having a liquid passage space defined therein (two generally cylindrical spaces of reduced radius, centered along the axes which define the liquid passage portion) in fluid communication with an interior of said male joint member,

a first female joint port (18, which is a component of the first inlet port) which is capable of receiving a tube (see annotated FIG 5, below); and

a first valve body (46,48) disposed in said first female joint port and made of elastic material (see reference to "deformable piston" in column 3 line 33), said first valve body having slit (26);

wherein when a tube is connected to said first female joint port, said first valve body is deformed to open the slit of said first valve body (see column 3 lines 33-39) to bring an interior of the tube and an interior of said male joint member into fluid communication with each other through the slit of said first valve body and said liquid passage space.

Leinsing also discloses a second inlet port (see annotated FIG 5, below), but does not disclose a second valve body and second female joint port connected to this second inlet port. To avoid contamination and reduce the need for cleaning at the second inlet port, it would have been obvious to one of ordinary skill in the art at the time of invention to supplement Leinsing's second inlet port with a second valve body and second female joint port of the same construction as Leinsing's first valve body and first female joint port, to predictably obtain a connector which creates an airtight seal at the connection to either inlet port. (Alternatively, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a second valve and second female joint port, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8).

As such, the central line of the first female joint port and the central line of the second female joint port would be skew lines with respect to each other, as claimed. (Merriam-Webster's dictionary also defines the term *skew* as "slanted".)

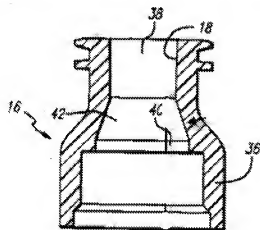


FIG. 6

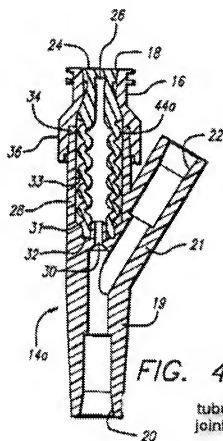
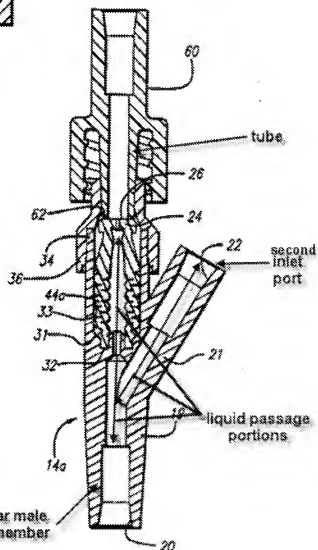


FIG. 4

FIG. 5



Allowable Subject Matter

7. Claim 1-6, 12, 13, 17 and 18 are allowed.
8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with (see the objection to the specification in paragraph 2 above). See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

9. Applicant's arguments, see Remarks, pp. 8-11, filed 12/11/2008, with respect to claims 1-5, 12, 12, 17 and 18 have been fully considered and are persuasive. The rejection of these has been withdrawn.
10. Applicant's arguments regarding claim 24 have been fully considered but they are not persuasive. Applicant contends that Leinsing's lines are not skew because they intersect. However, the broadest reasonable interpretation of the term "skew" is not limited to non-intersecting lines, as there are several other common meanings of the term skew (such as "slanted") which read upon the configuration disclosed by Leinsing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM MCCALISTER whose telephone number is (571)270-1869. The examiner can normally be reached on Monday through Friday, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM MCCALISTER/
Examiner, Art Unit 3753

/Stephen M. Hepperle/
Primary Examiner, Art Unit 3753

WM
2/5/09